

C.C.R.B CASE CLOSING FORM

Investigator assigned: Bleyer		Team: 6	CCRB#: 9900679	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourtesy <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Date of incident: 11/13/98	Time of incident: 6:20 PM	Location of incident: St. Johns Place and Kingston Ave., Brooklyn	Pct. of occurrence: 077	Date S.O.L. Expires: 5/13/00
Date reported: 2/11/99	Time reported: 6:09 PM	To whom/where/how reported: Complaint made by walk-in to CCRB.		
Complainant: § 87(2)(b)		Home address: § 87(2)(b)		
Victim(s):		Home address:		
Witness(es): § 87(2)(b)		Home address: § 87(2)(b)		
Subject officer(s) (include rank): PO Darryl Chen PO Colin Woode		Shield: 29402 13547	Tax: 903608 918492	Command: 077 077
Witness officer(s) (include rank):		Shield:	Tax:	Command:
Allegation(s) by letter: A- PO Chen used excessive force when he slammed § 87(2)(b) to the ground, in violation of PG 104-01. B- PO Woode used excessive force when he slammed § 87(2)(b) to the ground, in violation of PG 104-01. C- PO Chen used excessive force when he picked § 87(2)(b) up by his handcuffs, in violation of PG 104-01. D- PO Woode used excessive force when he picked § 87(2)(b) up by his handcuffs, in violation of PG 104-01.				Recommendation(s): A- § 87(2)(g) B- § 87(2)(g) C- § 87(2)(g) D- § 87(2)(g)

Synopsis

§ 87(2)(g) § 87(2)(g) § 87(2)(g)

§ 87(2)(b) alleges that PO Woode and PO Chen used excessive force when they slammed him to the ground, handcuffed him, and picked him up by his handcuffs. § 87(2)(g)

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) went into a bar called § 87(2)(b) at around 6:00 PM on November 13, 1998 to have a drink. After two or three drinks, he was humming and singing to himself. Another customer in the bar was bothered by his singing, and called the police. § 87(2)(b) said that neither the owner, the bartender, nor the other customers

were bothered by him. PO Woode and PO Chen came to the bar and asked § 87(2)(b) to step outside, which he did. They asked to see some identification, and § 87(2)(b) refused the request. PO Woode said "If you don't show us some identification, we're going to arrest you." § 87(2)(b) was agitated because he did not think he had done anything wrong. The officers again asked for ID, he refused, and they slammed him down to the ground. They handcuffed him behind his back, and he complained that the handcuffs were too tight. They then picked him up by the handcuffs, resulting in three large cuts on his right wrist and a bruise on his left wrist. The officers put him in the backseat of the patrol car. § 87(2)(b) says that he was being loud and agitated because his wrists hurt, and he did not understand why he had been arrested. He claims that he was not intoxicated. At the precinct, a small amount of marijuana was found on him. One of the officers asked if he wanted medical attention and he had § 87(2)(b)'s wrists cleaned and bandaged. § 87(2)(b) to go to the hospital. § 87(2)(b) contends that he has suffered permanent nerve damage to his left thumb and left forefinger.

Results of Investigation

§ 87(2)(b) contended that there was a large group of witnesses to this incident, but the only one he could name was an acquaintance named § 87(2)(b) whose last name, address or phone number he did not know. He told the investigator that he would call with this information, but he never did. A field visit was made to the § 87(2)(b) on March 26, 1999. Two of the people who § 87(2)(b) had referred to were there: the bartender, § 87(2)(b) and the owner, § 87(2)(b). Both refused to give a tape-recorded interview, but they spoke casually and at length about this incident, which they remembered vividly. They both contended (often interrupting and speaking over each other) that § 87(2)(b) was very drunk inside their establishment, and was being loud and inappropriate. Both § 87(2)(b) and § 87(2)(b) talked at length, but not in detail, about how § 87(2)(b) was misbehaving, offending everyone in the bar, and being an aggressive menace. § 87(2)(b) said that she called the police when § 87(2)(b) refused her own request that he leave the establishment. Both § 87(2)(b) and § 87(2)(b) confided that although they usually don't like police officers, they felt that PO Chen and PO Woode acted very well when they came. They said that the police officers coaxed § 87(2)(b) outside, handcuffed him and took him away. They insisted that PO Chen and PO Woode never used any force with § 87(2)(b), and behaved impressively considering how physically overwhelming and drunk he was.

Outside the bar, there were six young men milling about. Four of them denied having any knowledge of the incident, one of them said that he heard about it but was not there, and one, § 87(2)(b) said he saw it and agreed to be interviewed. § 87(2)(b) said that he was outside the bar when PO Chen and PO Woode arrived and went inside the bar. He said they tried for some time to remove him, and he consistently refused until they finally brought him out. § 87(2)(b) said that when the officers asked § 87(2)(b) for ID he refused, and when they announced the arrest and tried to handcuff him, he resisted by shaking his arms and wrestling with the officers. Mr. § 87(2)(b) said that § 87(2)(b) and one of the officers both fell on the ground accidentally, and then both officers held him on the ground as they maneuvered his hands behind his back and handcuffed him. They picked him off the ground with one officer holding him underneath his waist, and another holding his hands. § 87(2)(b) said that § 87(2)(b) screamed that the handcuffs were too tight, but he never saw the police officers pick him up solely by the handcuffs.

PO Chen said that when he and PO Woode arrived at the § 87(2)(b) the owner came out and explained that § 87(2)(b) was drunk and out of control, and he wanted him ejected from the bar but he refused to leave. PO Chen and PO Woode signaled to § 87(2)(b) to come outside, and he staggered out. PO Chen said that § 87(2)(b) smelled strongly of alcohol, had bloodshot eyes, and appeared to be heavily intoxicated. The officers tried to reason with him for a while, calmly asking him to leave and explaining that he could come back another day. § 87(2)(b) refused to leave and became increasingly agitated, eventually cursing and screaming at the officers. They kept asking him to leave, and after several more minutes told him that he was under arrest. Each officer took one of his arms, and he resisted by shaking around and dropping to his knees to get them to release his arms. They struggled to get the handcuffs on while he was kneeling, and then picked him up each by one of his armpits.

Neither officer, according to PO Chen, picked him up by his handcuffs, especially considering that it would have been impossible given his size. They put him in the backseat of their patrol car, and en route to the station § 87(2)(b) was shaking around in the backseat. At the precinct, the officers found bags of marijuana on § 87(2)(b). He complained of pain in his wrists and the officers saw some cuts there and called EMS. PO Chen believes that, since handcuffs automatically tighten when fidgeted with, § 87(2)(b) tightened the handcuffs himself while shaking around in the backseat of the patrol car.

PO Woode said that when he and PO Chen arrived at the § 87(2)(b) the owner came out and explained that § 87(2)(b) was being loud, aggressive and offensive to the patrons, and he wanted him ejected from the bar but he refused to leave. PO Woode and PO Chen signaled from the doorway to § 87(2)(b) to step outside, and he complied. PO Woode said that § 87(2)(b) was visibly intoxicated and smelled of alcohol. PO Woode asked § 87(2)(b) for ID, and he could not produce any. Both officers talked calmly with § 87(2)(b) for about twenty minutes, asking him to move along in accordance with the owner's wishes. § 87(2)(b) grew loud and aggressive with the officers and continually refused to leave. PO Woode then told him to turn around and put his hands behind his back. § 87(2)(b) refused, and swung his arms around to avoid being arrested. § 87(2)(b) dropped to his knees to avoid being handcuffed, and the officers managed to pull his arms behind his back. Because of his large forearms, the handcuffs were not big enough to connect behind his back, so the officers linked two pairs together to finally cuff him. They stood him up by lifting his armpits and shoulders, and never picked him up by his handcuffs. They put him in the back of the patrol car, where he flailed around and screamed en route to the precinct. At the precinct, § 87(2)(b) complained of pain in his wrists, and the officers saw cuts there and called EMS. PO Woode believes that § 87(2)(b) tightened his own handcuffs while struggling in the backseat, which would automatically tighten them.

The radio run shows that the police officers arrested § 87(2)(b) at 6:45 PM, and EMS was called to the precinct at 7:12 PM. On the tapes received from the communications division, there are two separate phone calls made to 911. The first one is from the owner of the § 87(2)(b) § 87(2)(b) who is heard complaining that § 87(2)(b) is trying to "mash up the bar" and threatened to cut someone's foot off. § 87(2)(b) is heard requesting that police officers come right away to remove § 87(2)(b) because he is out of control and aggressive. In the background of the phone call, one can hear § 87(2)(b) bellowing, screaming, cursing and carrying on. The second call is a few minutes later from the bartender § 87(2)(b) who complains that they already called 911 and no officers have showed up. She reiterates that § 87(2)(b) is out of control and they need him kicked in. Again in this phone call, § 87(2)(b) can be heard in the background screaming and cursing viciously. The police radio calls only trace the announcement of the call, the response of the two officers and their arrest of § 87(2)(b). Most of it is cut off or inaudible, except for a snippet at the very end when one of the police officers can be heard saying "small cuts to the wrist."

§ 87(2)(g) On the day that he came to file his CCRB complaint, he was in a wheelchair with full casts on both arms as a result of a recent car accident. § 87(2)(g) refused to go to the hospital on the day of his arrest, and he never saw a private physician in reference to the injuries after he was released.

Conclusions and Recommendations

§ 87(2)(g) He stated that he had two or three drinks and then began humming to himself. § 87(2)(b) PO Chen and PO Woode all described him as being heavily intoxicated and out of control, and the 911 tapes prove that he was screaming and yelling violently. § 87(2)(b) said that neither the owner nor the bartender were bothered him, when in fact it was the both the owner and bartender who called the police. He said that he simply argued with the police officers outside the bar, and both PO Chen and PO Woode said that he was raving mad and yelling violently. § 87(2)(g)

Allegations A and B – Excessive Force

§ 87(2)(b) claimed that the two police officers slammed him down to the ground after he twice refused to show identification. PO Chen and PO Woode both recalled § 87(2)(b) in a drunken stupor, resisting arrest by falling to his knees and flailing his arms to keep them away from the officers. § 87(2)(b) and § 87(2)(b) who were not officially interviewed, said off the record that the officers handcuffed § 87(2)(b) "on the ground" but insisted many times that there was nothing violent or forceful about the way that the officers apprehended him. § 87(2)(b) recalled one officers falling onto the ground with § 87(2)(b) accidentally before handcuffing him. § 87(2)(g) Both PO Chen and PO Woode conceded that they struggled to get § 87(2)(b) hands behind his back, and qualified this struggle as the "necessary force" referred to on § 87(2)(b) arrest report. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegations C and D – Excessive Force

§ 87(2)(g) He alleges that the police officers picked him up by his handcuffs, causing the cuts on his wrist. § 87(2)(b) and § 87(2)(b) mentioned nothing of the sort. § 87(2)(b) said that one officer held his hands and the other propped up his waist. PO Chen and PO Woode both said that they picked up him under his arms to a standing position. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Investigator: _____

Date: _____

Supervisor: _____

Date: _____

Reviewed by: _____

John P. Cipriano

Date: _____

Reviewed by: _____

Date: _____